

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEVIN BISHOP,

Plaintiff,

vs.

JOHN E. POTTER, *et al.*,

Defendants.

Case No. 2:08-cv-00726-RLH-GWF

ORDER

Motion for Extension (#148)

This matter is before the Court on Defendant U.S. Postal Service's Motion for Extension of Time to Respond to Plaintiff's Second Amended Complaint (#148), filed June 28, 2010.

On May 28, 2010, the U.S. Marshal's Office filed proof that Plaintiff's Second Amended Complaint had been served upon the U.S. Attorney's Office for the District of Nevada as required by Fed.R.Civ.P. 4(i) in order to serve Defendant U.S. Post Service ("USPS"). The proof of service indicates that the date of service upon the U.S. Attorney's Office was May 24, 2010.¹ (*Id.*) On June 23, 2010, the U.S. Marshal's Office filed proof of service upon Defendant U.S. Post Service ("USPS") (#142), which states that service was effected June 14, 2010. (*Id.*) The docket text associated with the proof of service (#142) in CM/ECF includes a notation that Defendant USPS's answer to the second amended complaint is due on June 14, 2010. (*Id.*) However, the noted deadline for USPS to file its answer is incorrect. Defendant USPS is a government agency. Under Fed.R.Civ.P. 12(a)(2),

¹ The Process Receipt and Return filed with the Court indicates that a representative of the U.S. Attorney's Office for the District of Nevada accepted service on "11/24/10". (#130). While it is unclear why the form lists a date of service almost five months in the future, the Court will accept May 24, 2010 as the effective date of service for the purposes of the present motion as it is the date accepted by Defendant. (*Id.*) In addition, the U.S. Marshal's Office acknowledged receipt of the USM 285 forms on May 21, 2010, suggesting that a date of service three days later on May 24, 2010 is a reasonable presumption. (*Id.*)

1 government agencies and government employees sued in their official capacity have 60 days after
2 service upon the U.S. Attorney's Office to answer a complaint. Under this rule, USPS has until July 23,
3 2010 to answer or otherwise respond to Plaintiff's Second Amended Complaint. The Court will have
4 the deadline notation corrected in CM/ECF.

5 As Defendant USPS has 24 days remaining in which to answer or otherwise respond to
6 Plaintiff's Second Amended Complaint, an extension is not warranted at this time. Accordingly,

7 **IT IS HEREBY ORDERED** that Defendant U.S. Postal Service's Motion for Extension of
8 Time to Respond to Plaintiff's Second Amended Complaint (#148) is **denied**. Defendant USPS has
9 until **July 23, 2010** to answer or otherwise respond to Plaintiff's Second Amended Complaint (#95).

10 DATED this 1st day of July, 2010.

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13 **GEORGE FOLEY, JR.**
14 **UNITED STATES MAGISTRATE JUDGE**
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